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Rev(CT)
dtr 23/2/55

1955.

File No. BRA 2055

RHABC DEPARTMENT

& BRANCH

Subject:—

B Class

IRS Reg 16-13 Bombay Revl- Act Karnatak
57

Exemption from —

(from file BRA 2055-I)

Bur Dy
Sec
23/5

P.8
E

D-4

B Class

File No. BRA 2055 Karnatak

Sta. Sectt. Slip 24-A

3 BRA. 2055/60324.

R H & B.S. Deptt

1:1-7(m) G.Br.

Please see the letter from shri S. B. Kabboor, Pleader and Receiver of the Public Trust running in the name of "Pandhari Pantcha Masjid", Bagalkot. He has stated that the ~~imp~~ immoveable properties belonging to the trust consist of shop buildings and other residential houses. He had added that the trust is run solely by the income and the earnings made out of the rental of the buildings belonging to the Trust and that the Trust finds it difficult to manage its charitable activities as the income derived from the rent is low and also the tenants do not pay rents regularly. In the above circumstances, the applicant has requested Govt. to exempt the properties belonging to the Trust from the provisions of the Rent Act of 1947.

2. It may be stated that the applicant has not made out any case for exemption except the fact that the rents derived from the properties are low and the tenants do not pay rents regularly. If the tenants do not pay rents regularly, the applicant can recover the same from them under Sec. 12 of the Rent Act. In view of these

circumstances, informed that he be granted.

to applicant may be his request cannot the draft letter on [illegible] case may issue.

Jt. Secy.

From

S.B. Kabbin, LL.B.,

Pleader and Receiver of the Public Trust running in the name of " Pendhari Pankha Masjid Bagalkot." Bagalkot. Dist: Bijapur.

To,

The Chief Secretary,

Home Department, State of Bombay,

Secretariate, B o m b a y.

HOME DEPARTMENT
F. . .
D. .
erial No.

Subject:- Claiming exemption under Sec.4 of the Rents Hotel & Lodging House Control Act of 1947-- in respect of the Public Trust in the name of " Pendhari Pankha Masjid Bagalkot "

Sir,

I, the undersigned S.B.Kabbin, pleader and Receiver appointed by the District Court, Bijapur in respect of the Public Trust running in the name of " Pankha Masjid Bagalkot " and registered under the Bombay Public Trusts Act of 1950, beg to apply as follows:- Pendhari

1. That the top noted Public Trust " Pankha Masjid, Bagalkot " was registered under the Bombay Public Trusts Act, 1950 and a certificate of registra--tion has been issued by the Assistant Charity -- Commissioner, Belgaum Region, in the name of Abdulsaheb Rajesaheb Guledgudd and Rasulasaheb Dongrisaheb Herkal.

2. On account of a dispute between the Pendhari Mohamadans on the one hand and a non-Pendhari Muslims on the other, about the right of management of the said Trust, an application under Sec.47 of the Bombay Public Trusts Act has been made to the District Court, Bijapur, for appointment of new -- trustees etc,. That application is still pending in the said Court and at the instance of the parties,

the learned District Judge, Bijapur in the said -- proceedings has appointed me, as a Receiver to take possession of the Trust Properties and to manage it. In pursuance of the order of the District Judge, I have been placed in possession of the properties which -- consists of immoveable properties and moveables -- situate within the Town of Bagalkot.

3. That the immoveable properties of the said Trust consist of shop buildings and other residential houses.

4. That the provisions of the Bombay Rents, Hotel and Lodging House Rates Control Act 57 of 1947 have been made applicable to the City of Bagalkot and that the Bagalkot Municipal area has been shown in the Schedule I of the said Act and this Bagalkot Town comes within the Bijapur District.

5. That the said top noted Public Trust is managed and run solely by the income and the earnings made out of the rental of the buildings belonging to the said Trust. On account of the provisions of the Bombay Rents Control Act of 1947, it has become --- impossible to realise the rents and to meet with the necessary requirements of the said Public Trust. It is likely that all the necessary functions and necessary ceremonies etc., which are required to be done by long usage, in respect of the said Public Trust will have to be stopped or discontinued , on account of the non-pay--ment of rental amounts or of little meagre realisation of the same. Under such circumstances, in order to have a smooth management and efficient equipment and also for carrying out the neeessary ceremonies and functions etc., of the said Public Trust, it is prayed that the Bombay State Government may kindly be --- pleased to issue notification or Government order to

to the effect that all the provisions of the said Bombay Rents Control Act, 1947 should not apply to the premises belonging to the above noted Public--Trust. As the said premises are held by Public-Trust for religious or charitable perposes. If the Bombay State Government is pleased to issue such direction exempting the said Public Trust, from the operation of the provisions of the Bombay Rent -- Control Act, 57 of 1947, it will go very smooth to have efficient management of the said Public Trust and the objects and purposes of the Trust will be fulfilled without any hindrance.

I intend to bring to your kind notice the provisions of Sec.4(2) of the Bombay Rent Control Act, 57 of 1947, which enables and permits the State - Government to exempt any public Trusts from the operation of the provisions of the said Act. I am also producing herewith :-

(i) A certified copy of the judgment of the Charity Commissioner Bombay passed in appeal against the order of the Asstt: Charity Commissioner;

(ii) A true copy of the order of appointmen of the District Judge, Bijapur --- appointing me as a Receiver of the properties of the said Trust. The properties of the said trust also mentioned in the said order.

(iii) A true copy of the certificate of Registration of the said Public Trust issued on 22-12-1954 by the Asstt; Charity Commissioner, Belgaum.

6. I, therefore, beg of your Honour to be

137

pleased to issue a Government Notification under Sec.4 of the Bombay Rent Control Act of 1947, -- exempting the top noted Public Trust from the operation of the provisions of the said Act. It is further prayed that the necessary orders be kindly passed at a very early date, as some proceedings in -- respect of the said Trust properties by or -- against tenants are pending in the Civil Court, at Bagalkot.

I, as in duty bound, shall ever pray.

Yours faithfully,

Bagalkot,
1st November, 1955.

Receiver,
Pankha Masjid Bagalkot.

Submitted through the District Judge

Bijapur

2-11-55.

No. 7927 of 1955.

Forwarded with compliments to the Secretary to Government, Home Department, Bombay.

District Court, Bijapur,
11th November, 1955.

District Judge.

HOME DEPARTMENT
Serial No. 25 8887

Words	...	776
Copying charges	...	2-0-0
Comparing charges	...	0-8-0
Paper & Postal charges		0-12-0
Total Rs.		3-4-0

Copy applied for on 10th September, 55
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Superintendent.

Ex. 10.

BEFORE THE CHARITY COMMISSIONER, BOMBAY.

APPEAL No. 17 of 1955 from an order passed by the Assistant Charity Commissioner (Shri L. Y. Ankalgi) of Belgaum Region, in applications Nos. 1435 and 1440 of 1952.

1. Abdulsaheb Rajesaheb Guledgudda alias Pendhari
2. Saifansaheb Kasimsaheb Kaladgi alias Pendhari
3. Abdul-latif wd. Haji Abdul Gani Engineer .....Appellants

Vs.

1. Rasulsaheb Dongarisaheb Herakal,
resident of Vagalkot, Dist. Bijapur .....Respondent

M/s H. G. Anikar & R. H. Anikar,
Pleaders, appear for the appellants.

Shri V. V. Albal, Advocate,
appears for the respondent.

ORDER

THIS is an appeal under section 70 of the Bombay Public Trusts Act, 1950, against a decision of the Assistant Charity Commissioner, Belgaum Region, under section 20 of the same Act.

2. There is no dispute in this appeal about the mosque known as the Pendhari Mosque situated at Bagalkot, Taluka Bagalkot, District Bijapur, being a public trust. The only dispute is about the right to manage the mosque. The

appellants contend that only the Pendharis of the Pendhari Lane of Bagalkot have the right to manage the mosque.

I see no substance whatever in this contention. It is not the case of the appellants that the mosque is only for Pendharis and Pendharis alone are entitled to manage it. Their case is that the mosque is for all, Pendharis as well as non-Pendharis, but Pendharis alone have the right to be Mutawallis. The story is thus inherently improbable. Further, not a single document has been produced toshow that only Pendharis were acting as Mutawallis of this mosque at any time. On the contrary it is common ground that the mosque was managed by Kathiawadis along with Pendharis till the Kathiawadis left for Pakistan. Even the respondent, who is not a Pendhari, has acted as a Mutawalli of this misque. There is also no document showing that a claim was at any time made that the Pendharis alone were entitled to manage the mosque. All the title deeds of the mosque are admittedly with non-Pendharis and the accounts of the mosque from 1934 to 1951 (Exhibits 67 and 68) show that contributions from non-Pendharis were always greater than contributions from Pendharis. It is admitted that when a tank was built and an engine installed to supply water to the tank in 1951, subscriptions were raised from all and not only from Pendharis. The orders of the Mamlatdar and the Prant Office (Exhibits 64 and 65) show that the mosque is not situated exclusively in the Pendhari Lane or locality. Exhibit 55/4 is an agreement passed on 17/4/1936. It shows that the Pendharis of Pendhari Lane have by this document made over to the Mutawallis of the Pendhari Mosque a gymnasium built solely for the Pendharis of the Pendhari Lane., This is also inconsistent with the story now put forward by the appellants. The appellants were not even aware of all the properties of the mosque when they filed their registration application and it was the non-Pendharis who gave the list of all the properties of the mosque. It is true that the mosque has been referred to as Pendhari Mosque in Government records but it is too much

No. 12253A /53.
Date: 21-11-53.

B

APPOINTMENT OF RECEIVER.

IN THE COURT OF THE DISTRICT JUDGE, BIJAPUR.

AT: BIJAPUR.

MISC. APPLICATION NO. 36 of 1952 . Exh. 49.

1. Jamalkhan Mohammadkhan Pathan of Bagalkot.
2. Hasanasaheb Madarsaheb Tasagaun of Do.
3. Mahibubsaheb Khadirsaheb Tankasali of Do.
4. Rasulsaheb Hajratsaheb Nalband of Do... Applicants.

Vs.

1. Abdulsaheb Rajesaheb Guledgudd of Bagalkot.
2. Saipansaheb Kashimsaheb Kaladgi of -do-
3. Abdullatif Abdulgani Engineer of -do-
4. Rasulsaheb Dongrisaheb Herkal of -do- .. Opponents.

To,

Shri. S.B.Kabbin, Pleader,

Bagalkot.

You are hereby appointed as an interim receiver to take possession of all the properties belonging to the Pankha Mosque situated at Bagalkot as per schedule given below, to make recoveries and incur expenditure regarding the said Mosque and to keep accounts thereof, until further orders of this Court. Your remuneration will be fixed later

Schedule of properties belonging to the Mosque.

City Survey Nos. 370, 370A, 371, 371A, 371B, 372, 373, 374, 375, 375A, 375B, 376A, 377B, 380, 381 and 375 in Ward No.II, at Bagalkot.

City Survey Nos. 83, 84, 704, 85, 86, 87 and 89A in Ward No.VII at Bagalkot.

City Survey Nos. 85, 86, 87 and 87B in Ward No.VII at Bagalkot.

City Survey Nos. 85, 86, 87 and 89C in Ward No. VII at Bagalkot.

City Survey Nos. 705, 567A and 618B in Ward No. VII at Bagalkot.

City P.T.O.

City Survey Nos. 367B, 575A and 575B in Ward No. II, at, Bagalkot.

He is further directed to take charge from Shri. G.H.Chebbi, pleader, Bagalkot, Receiver and report.

Given under my hand and the seal of the Court this 13th day of November, 1953.

Seal.

Sd. N.S.Shrikhande.
District Judge,.

True Copy "

1435/52 with
1440/52

CERTIFICATE OF REGISTRATION. No. 35224 +5

It is hereby certified that the Public Trust described below has this day been duly registered -- under the Bombay Public Trusts Act, 1950 (Bom.XXIX of 1950), at the Public Trusts Registration Office, Belgaum Region, Belgaum.

Name of Public Trust :- Shri. Pendari & Pankha-
Masjid of Bagalkot.

Number in the Register of Public Trusts :- B - 221 (BJP)

Certificate issued to Shri. Abdulsaheb Rejesaheb Guledgud & Rasulsaheb Dongrisaheb Herkal.

Given under my hand, this 22nd day of December 1954

Seal

Signature:- L.Y. Ankalgi,

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NO BRA 2055/60324-9.
RH & BC. Deptt etc

26 DEC 1955

To.
Shri S. B. Kabbin,
Pleader and Receiver of the Public
Trust of "Pandhari Pankha Masjid",
Bagalkot, Dist Bijapur.

Sub:- Rent Act of 1947
request for exemption under section
4(2) of the

Sir,

With ref to your letter dt 1/11-7 addressed to the Govt. in H.D. Bijapur through the Dist. Judge, Bijapur, on the above subject, I am directed to state that your request for grant of exemption to the properties belonging to the "Pandhari Pankha Masjid", Bagalkot, from the provisions of the Rent Act of 1947, cannot be granted.

RECEIVED
26 DEC 1955

yt.
26/12
D.S etc

29/12/55